

Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number <b>Jeffrey I. Golden, State Bar No. 133040</b> <b>WEILAND, GOLDEN,</b> <b>SMILEY, WANG EKVALL &amp; STROK, LLP</b> P.O. Box 2470 Costa Mesa, CA 92628-2470 Telephone: (714) 445-1013 Facsimile: (714) 966-1002	FOR COURT USE ONLY
<b>UNITED STATES BANKRUPTCY COURT</b> <b>CENTRAL DISTRICT OF CALIFORNIA</b>	
In re: DAVID MARK FAYLOR,  <div style="text-align: right;">Debtor(s).</div>	CASE NO. 8:08-bk-16549-ES  Chapter 7

## NOTICE OF SALE OF ESTATE PROPERTY

<b>Sale Date:</b> N/A	<b>Time:</b> N/A
<b>Location:</b> N/A	

Type of Sale: ☐ Public ☒ Private Last date to file objections: June 2, 2010

Description of Property to be Sold: See attached Notice of Motion for Order: (1) Authorizing Sale of Property of the Estate Free and Clear of Liens, Claims and Interests Pursuant to 11 U.S.C. §§ 363(b) and (f); (2) Approving Overbid Procedures; (3) Approving Buyer, Successful Bidder, and Back-Up Bidder as Good-Faith Purchaser Pursuant to 11 U.S.C. § 363(m); and (4) Denying the Debtor's Exemption (the "Notice").

Terms and Conditions of Sale: See attached Notice.

Proposed Sale Price: See attached Notice.

Overbid Procedure (If Any): See attached Notice.

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e-mail address):

Jeffrey I. Golden, Chapter 7 Trustee

Weiland, Golden, Smiley, Wang Ekvall & Strok, LLP

P.O. Box 2470

Costa Mesa, CA 92628-2470

(714) 445-1013 (tel); (714) 966-1002 (fax)

Date: May 17, 2010

Jeffrey I. Golden, State Bar No. 133040  
**WEILAND, GOLDEN,  
SMILEY, WANG EKVALL & STROK, LLP**  
P.O. Box 2470  
Costa Mesa, California 92628-2470  
Telephone: 714-445-1013  
Facsimile: 714-966-1002

Chapter 7 Trustee

**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SANTA ANA DIVISION**

In re

DAVID MARK FAYLOR,

Debtor.

Case No. 8:08-bk-16549-ES

Chapter 7

**NOTICE OF MOTION FOR ORDER:**

- (1) **AUTHORIZING SALE OF  
PROPERTY OF THE ESTATE FREE  
AND CLEAR OF LIENS, CLAIMS,  
AND INTERESTS PURSUANT TO  
11 U.S.C. §§ 363(b) AND (f);**
- (2) **APPROVING OVERBID  
PROCEDURES;**
- (3) **APPROVING BUYER, SUCCESSFUL  
BIDDER, AND BACK-UP BIDDER  
AS GOOD-FAITH PURCHASER  
PURSUANT TO 11 U.S.C. § 363(m);  
AND**
- (4) **DENYING THE DEBTOR'S  
EXEMPTION**

[No Hearing Required Pursuant to Local  
Bankruptcy Rule 9013-1(o)]

**TO ALL PARTIES IN INTEREST:**

**PLEASE TAKE NOTICE** that Jeffrey I. Golden, the chapter 7 trustee (the "Trustee") for the estate (the "Estate") of David Mark Faylor (the "Debtor"), has filed a motion (the "Motion") for an order:

- (1) approving the sale of the civil lawsuit *Faylor v. Bernstien*, Orange County Superior Court Case No. 30-2008-00115631 (the "Action"), as-is, without any representation or warranty, but free and clear of liens, claims, and interests pursuant to 11 U.S.C. §§ 363(b) and (f);

- (a) to the defendants in the Action (the "Buyer") for \$20,000 (the "Purchase Price"); or
- (b) to the successful bidder whose purchase offer for the Action is accepted by the Trustee upon conclusion of the bidding process;
- (2) approving the overbid procedures set forth in the Motion as summarized below;
- (3) approving the Buyer, the successful bidder, and the back-up bidder as a "good faith" purchaser under § 363(m) of the Bankruptcy Code;
- (4) authorizing the Trustee to take any and all necessary actions to consummate the sale of the Action;
- (5) denying the Debtor's claimed exemption in the Action; and
- (6) granting such other and further relief as this Court deems necessary and proper.

**PLEASE TAKE FURTHER NOTICE that all overbids must be in writing and must be submitted to the Trustee whose address is listed in the top left hand corner of the first page of the instant Notice. Overbids are due on or before June 2, 2010, at 5:00 p.m.**

**PLEASE TAKE FURTHER NOTICE** that the overbid procedures sought be approved by the Court are as follows:

1. Qualifying bidders ("Qualifying Bidder") shall:
  - a. bid at least \$21,000 in cash for the Action;
  - b. set forth in writing the terms and conditions of the offer that are at least as favorable to the Trustee as those set forth in the Motion;
  - c. be a party financially qualified, in the Trustee's exercise of his sound business judgment, to close the sale on a timely basis;
  - d. submit an offer that does not contain any contingencies to closing the sale. The written offer and evidence of financial qualification must be delivered to the Trustee on or before June 2, 2010, at 5:00 p.m.;
2. Only the Buyer and any party who is deemed a Qualifying Bidder shall be entitled to bid.
3. Any incremental bid in the bidding process shall be at least One Thousand Dollars (\$1,000) higher than the prior bid.
4. Upon conclusion of the bidding process, the Trustee shall decide which of the bids is the best bid, and such bid shall be deemed to be the "Successful Bid." The bidder who is accepted by the Trustee as the successful bidder (the "Successful Bidder") must pay all amounts reflected in the Successful Bid in cash at the closing of the sale. Upon conclusion of the bidding process, the Trustee may also acknowledge a back-up bidder ("Back-Up Bidder") which shall be the bidder with the next best bid. Should the

1 Successful Bidder fail to close the sale of the Action, the Trustee may sell  
2 the Action to the Back-Up Bidder without further Court order.

3 The Motion is based upon the Memorandum of Points and Authorities, the  
4 Declaration of Jeffrey I. Golden attached to the Motion, and all pleadings, papers and  
5 records on file with this Court.

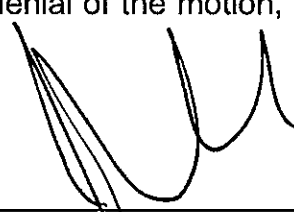
6 A complete copy of the Motion is on file at the Bankruptcy Court.

7 **PLEASE TAKE FURTHER NOTICE** that in accordance with Local Rule 9013-  
8 1(o)(1), if you oppose the Motion you must file a written "Objection and Request for  
9 Hearing" within 14 days after the date of service of this notice and serve a copy of the  
10 "Objection and Request for Hearing" on the Trustee at the address above. Failure to  
11 timely file and serve the "Objection and Request for Hearing" may result in the Court's  
12 entry of an order approving the Motion.

13 **PLEASE TAKE FURTHER NOTICE** that Local Bankruptcy Rule 9013-1(h)  
14 provides:

15 Papers not timely filed and served may be deemed by the Court  
16 to be consent to the granting or denial of the motion, as the case  
17 may be.

18 DATED: May 18, 2010

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21 JEFFREY I. GOLDEN  
22 Chapter 7 Trustee  
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In re:  
David Mark Faylor

Debtor(s).

CHAPTER 7

CASE NUMBER 8:08-bk-16549-ES

**NOTE:** When using this form to indicate service of a proposed order, **DO NOT** list any person or entity in Category I. Proposed orders do not generate an NEF because only orders that have been entered are placed on the CM/ECF docket.

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

**P.O. Box 2470 Costa Mesa, CA 92628-2470**

A true and correct copy of the foregoing documents described **NOTICE OF MOTION FOR ORDER: (1) AUTHORIZING SALE OF PROPERTY OF THE ESTATE FREE AND CLEAR OF LIENS, CLAIMS, AND INTERESTS PURSUANT TO 11 U.S.C. § 363(b) AND (f); (2) APPROVING OVERBID PROCEDURES; (3) APPROVING BUYER, SUCCESSFUL BIDDER, AND BACK-UP BIDDER AS GOOD-FAITH PURCHASER PURSUANT TO 11 U.S.C. § 363(m); AND (4) DENYING THE DEBTOR'S EXEMPTION** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

**I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On **May 19, 2010** I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

☒ Service information continued on attached page

**II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL**(indicate method for each person or entity served):

On **May 19, 2010** I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

**III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL** (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **May 19, 2010** I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

The Honorable Erithe A. Smith  
United States Bankruptcy Court - Central District of California  
Ronald Reagan Federal Building and United States Courthouse  
411 West Fourth Street, Suite 5041  
Santa Ana, CA 92701-4593

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

5/19/10  
Date

Lindsay Fisk  
Type Name

/s/ Lindsay Fisk  
Signature

In re:  
David Mark Faylor

Debtor(s).

CHAPTER 7

CASE NUMBER 8:08-bk-16549-ES

**By Notice of Electronic Filing ("NEF")**

Jeffrey I Golden ljones@wgllp.com, jgolden@ecf.epiqsystems.com

Michael J Hauser michael.hauser@usdoj.gov

Joe M Lozano notice@NBSDefaultServices.com

David F Makkabi cmartin@pprlaw.net

JaVonne M Phillips bknotice@mccarthyholthus.com

Cassandra J Richey cmartin@pprlaw.net

Ronald D. Roup ecf@rouplaw.com

John D Schlotter bkmail@mrdefault.com

United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

In re **DAVID MARK FAYLOR**  
Case No: 8:08-bk-16549-ES  
Revised: May 19, 2010 (KR)

**MASTER CREDITOR LIST**

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4	DAVID MARK FAYLOR 33692 BLUE LANTERN UNIT H DANA POINT CA 92629 DEBTOR	DAVID MARK FAYLOR 33852 GRANADA DRIVE DANA POINT CA 92629 DEBTOR	DANIEL G BROWN 515 CALLE DE SOTO SAN CLEMENTE CA 92672 COUNSEL FOR DEBTOR/PLAINTIFF
5			
6	JOHN D OTT ESQ LAW OFFICES OF JOHN D OTT 550 PARK CENTER DR STE 204 SANTA ANA CA 92705 COUNSEL FOR DEFENDANTS ROBIN AND PATTI BERNSTEIN	THOMAS J PRENOVOST JR MICHAEL D ROHFELD PRENOVOST NORMANDIN BERGH & DAVE 2122 N BROADWAY STE 200 SANTA ANA CA 92706 COUNSEL FOR DEFENDANTS LLOYD MESTAS AND APEX MORTGAGE SERVICES	UNITED STATES TRUSTEE (SA) 411 W FOURTH ST SUITE 9041 SANTA ANA CA 92701-4593
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10	ADAMS DESIGN GROUP 5931 SEA LION PLACE 114 CARLSBAD CA 92010	ALL SERVICE GLASS 2422 DEL PRADO 1 DANA POINT CA 92629	APEX MORTGAGE 1551 N TUSTIN SUITE 660 SANTA ANA CA 92705
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12	A-STAR GLASS AND METAL C/O DONNA HARGIS 4922 EDINGER AVE #D8 HUNTINGTON BEACH CA 92649	BAC HOME LOANS SERVICING LP 7105 CORPORATE DRIVE PTX-B-35 PLANO TX 75024	BANK OF AMERICA PO BOX 15726 WILMINGTON DE 19886-5726
13			
14	BUBBA KAHUNA'S PIZZA & BBQ CO C/O SCOTT BRADLEY COOKUS 33931 AMBER LANTERN ST DANA POINT CA 92629	CAPITAL ONE BANK (USA) NA C/O TSYS DEBT MGMT (TDM) PO BOX 5155 NORCROSS GA 30091	CAPITAL ONE PO BOX 60024 CITY OF INDUSTRY CA 91716-0024
15			
16	CITIZENS BUSINESS BANK 800 GLENNEYRE LAGUNA BEACH CA 92651	COUNTRYWIDE BANK FSB C/O COUNTRYWIDE HOME LOANS MAIL STOP:R RICHARDSON TX 75082	COUNTRYWIDE HOME LOANS SERVICING LP BANKRUPTCY DEPT 7105 CORPORATE DRIVE MAIL STOP PTX-C-35 PLANO TX 75024
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19	COUNTRYWIDE PO BOX 10287 VAN NUYS CA 91410	CRDTRST ASSIGNEE OF AMER EXPR C/O NCO FINANCIAL SYSTEMS INC 1804 WASHINGTON BLVD DEPT 500 BALTIMORE MD 21230	CROWN CONCRETE 24462 LA HERMOSA AVE LAGUNA NIGUEL CA 92677
20			
21	DANA PLUMBING INC C/O RICHARD WILKINS 1278 GLENNEYRE ST #33 LAGUNA BEACH CA 92651-3103	DANA PLUMBING 30792 MARILYN DRIVE LAGUNA BEACH CA 92651	DOHENY BUILDERS SUPPLY C/O TRACY L CLOW 25789 LAS VEGAS AVE CAPISTRANO BEACH CA 92624
22			
23	EMPLOYMENT DEVEL DEPT BANKRUPTCY GROUP MIC 92E PO BOX 826880 SACRAMENTO CA 94280-0001	FIA CARD SERVICES NA ATTN: MR BK 1000 SAMOSET DR DE5-023-03-03 NEWARK DE 19713	FRANCHISE TAX BOARD ATTN: BANKRUPTCY PO BOX 2952 SACRAMENTO CA 95812-2952
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26	GE MONEY BANK C/O RECOVERY MANAGEMENT SYSTEMS CORP RAMESH SINGH 25 SE 2ND AVENUE SUITE 1120 MIAMI FL 33131-1605	GUARDIAN RAINGUTTERS 5013 CAMINO ESCOLLO SAN CLEMENTE CA 92673	INCLINATOR CO OF CA 8116 BYRON ROAD #A WHITTIER CA 90606
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Weiland, Golden,  
Smiley, Wang Ekvall & Strok, LLP  
850 Town Center Drive, Suite 850  
Costa Mesa, CA 92626  
TELEPHONE 714-986-1000

1	INTERNAL REVENUE SERVICE 24000 AVILA ROAD M/S 5503 LAGUNA NIGUEL CA 92677	INTERNAL REVENUE SERVICE CENTRALIZED INSOLVENCY OPPTS PO BOX 21126 PHILADELPHIA PA 19114-0326	JANET E HUMPHREY SONGSTAD & RANDALL LLP 2201 DUPONT DR STE 100 IRVINE CA 92612
2			
3	JP MORGAN CHASE 7255 BAYMEADOWS WAY MAIL STOP JAXB2007 JACKSONVILLE FL 32256	LAGUNA ASPHALT PAVING PO BOX 814 DANA POINT CA 92629	LASALLE BANK NA TTEE FOR WAMU MRTG PASS CERT WMALT SERIES 2007-1 TRUST C/O MALCOLM & CISNEROS 2112 BUSINESS CENTER DR 2ND FL IRVINE CA 92612
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6	LEIJA EARTHWORK SOLUTIONS 24843 DEL PRADO #503 DANA POINT CA 92629	MARINA VISTA HOA 27132 B PASEO ESPADA 1201 SAN JUAN CAPO CA 92675	MARINA VISTA HOA 27132 PASEO ESPADA B SAN JUAN CAPO CA 92675
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8	MARINA VISTA HOA C/O COASTAL RESOURCE MGMT 27132 B PASEO ESPADA STE 1201 SAN JUAN CAPO CA 92675-3610	MARINA VISTA HOA C/O LOU AMATORE 27132B PASEO ESPADA #1201 SAN JUAN CAPO CA 92675	MERRELL FOLTZ 25816 DOMINGO AVENUE CAPISTRANO BEACH CA 92624
9			
10	MIRAMAR WHOLESALE NURSERY 19450 BAKER RANCH RD LAKE FOREST CA 92610	NCO PORTFOLIO MANAGEMNT PO BOX 3001 MALVERN PA 19355-0701	ORANGE COUNTY TREASURER TAX-COLLECTOR ATTN: BANKRUPTCY UNIT PO BOX 1438 SANTA ANA CA 92702
11			
12	PACIFIC TRANSPORTATION FCU 501 W 190 STREET GARDENA CA 90248	RECONTRUST COMPANY 1800 TAPO CANYON ROAD SV2-202 SIMI VALLEY CA 93063	RECOVERY MANAGEMENT SYSTEMS CORPORATION 25 SE 2ND AVE SUITE 1120 MIAMI FL 33131-1605
13			
14	RENWES APPLIANCES 25741 COMMERCE DRIVE LAKE FOREST CA 92630-8803	RESS FINANCIAL CORP 1780 T OWN & COUNTRY DR #105 NORCO CA 92860	ROBERT A MCGRAW 305 N COAST HWY STE K LAGUNA BEACH CA 92651-1681
15			
16	S&G READY MIX 931 CALLE NEGOCIA SAN CLEMENTE CA 92674	SCOTT COOKUS 34320 PACIFIC COAST HWY DANA POINT CA 92629	SEASIDE AIR ENTERPRISE 24036 BROADHORN DR LAGUNA NIGUEL CA 92677-4247
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18	SO CAL CONCRETE 7111 GARDEN GROVE 114 GARDEN GROVE CA 92841	SOUTH COAST SURVEYING 3214 CLAY STREET NEWPORT BEACH CA 92633	SO CALIFORNIA GAS COMPANY MASS MKTS CREDIT & COLLECTNS THE GAS COMPANY POB 30337 LOS ANGELES CA 90030-0337
19			
20	STATE BOARD OF EQUALIZATION PO BOX 942879 SACRAMENTO CA 94279-0001	THE BATH COMPANY 28361 MARGARITE PARKWAY MISSION VIEJO CA 92692	VINCENT TRUCKING 114 VIA ENSUENO SAN CLEMENTE CA 92672
21			
22	VINCENT TRUCKING PO BOX 1764 SAN JUAN CAPO CA 92675	WASHINGTON MUTUAL PO BOX 78148 PHOENIX AZ 85062	WORLDMARK BY WYNDHAM 10750 WEST CHARLESTON BL #130 LAS VEGAS NV 89135
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